

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.46912 of 2018

ORDER:

In this writ petition, petitioner challenges the order, dated 14.12.2018, passed by respondent No.3-District Registrar, Kurnool, refusing to entertain the appeal filed by him under Section 77 (4) of the Registration Act, 1908, against the order, dated 21.05.2018, passed by respondent No.4-Joint Sub-Registrar-I, Registrar's Office, Kurnool, refusing to register the document filed by the petitioner with the endorsement that the land in question is classified as Government KC Poramboke in terms of the proceedings, dated 14.04.2016, issued by respondent No.2-District Collector, Kurnool.

The petitioner asserts that initially, he filed W.P.No.31689 of 2018 challenging the order, dated 21.05.2018, and this Court disposed of the same on 05.09.2018 giving liberty to the petitioner to file an appeal under Section 77 of the Act based on the submission made by the learned Government Pleader that there is an alternative remedy of appeal, and directing the appellate authority to deal with such appeal in accordance with law. His grievance is that the order, dated 21.05.2018 came to be received by him on 09.08.2018, and the order, dated 05.09.2018 passed in the said Writ Petition was made available to him on 15.09.2018 and immediately thereafter, he filed appeal on 22.09.2018, as such, the appeal filed by him ought to have been dealt with on

merits rather than dismissing the same on the ground that it was filed beyond the period of limitation of 30 days.

Learned Government Pleader for Revenue submits that the order, dated 21.05.2018 came to be passed by respondent No.4 by making a reference to the proceedings, dated 14.04.2016, issued by respondent No.2 that the land in question is classified as Government KC Poramboke and that there is nothing wrong in passing the impugned order, as this Court while disposing of W.P.No.31689 of 2018 vide order, dated 05.09.2018 directed respondent No.3 to consider the appeal filed by the petitioner in accordance with law, which is inclusive of consideration with respect to the limitation as well.

Having considered the respective submissions and perused the material on record, it may be noted that this Court while disposing of W.P.No.31689 of 2018 through order, dated 05.09.2018, was conscious of the fact that there is no appeal preferred by the petitioner. In view of the same, respondent No.3 ought not to have dismissed the appeal filed by the petitioner on the ground that it was not filed within 30 days. It may be noted further that the learned Government Pleader argued as if the impugned order was passed on merits, which also cannot be accepted, as there is a duty cast on respondent No.3 to specifically deal with the objections raised by the petitioner in the appeal as to how and in what circumstances, the land in question does not belong to the Government. But, respondent No.3 did not deal with the same on merits, except extracting his

communication. Therefore, the impugned order cannot be construed as an order passed on merits. It may also be noted that respondent No.3 is required to state reasons why a particular contention raised by an aggrieved party is not acceptable in law. Even assuming that the order impugned is to be construed as an order passed on merits, the same being not a speaking order, it is liable to be set aside.

In those circumstances, the writ petition is allowed and the impugned order is set aside. Respondent No.3 is directed to deal with the appeal filed by the petitioner without reference to the limitation and pass orders on merits, after affording an opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:26.12.2018

kdl